



Idaho Soil & Water Conservation Commission

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IDAHO SOIL & WATER CONSERVATION COMMISSION

Commission Meeting

Wednesday, August 11, 2010

Broulim's Supermarket Conference Room

150 N. State St., Rigby ID 83442

8:00 a.m. MDT

APPROVED MINUTES

COMMISSION MEMBERS PRESENT:

Bill Flory

Dwight Horsch

Dick Bronson

Roger Stutzman

Dave Radford

COMMISSION STAFF PRESENT:

Sara Schmidt

Kristin Magruder

Chuck Pentzer

Terry Hoebelheinrich

PARTNERS AND GUESTS PRESENT:

Harriet Hensley

Kit Tillotson

David Ascuena

Jeff Burwell

Matt Woodard

Joyce Smith

Kari Schwendiman

Kathy Weaver

Lyla Dettmer

Kathy Merrill

Karma Bragg

Terry Halbert

Ken Stinson

Dennis Tanikuni

Lori Ringel

Randy Purser

Lynn Tominaga

Lynn Bagley

Pegi Long

Laurie Mccall

Chris Simons

Chuck Pentzer

Sal Palazzolo

Ron Abbott

Brian Reed

1 Meeting was called to order by Bill Flory, Idaho Soil and Water Conservation Commission (SWC)
2 member, at 8:00 a.m.

3
4 Welcome and self-introductions followed.

5 6 REVIEW OF IDAHO CODE § 22-2718

7
8 The commissioners began discussion and review of Idaho Code 22-2718, which includes the
9 election of SWC officers, option to designate advisors to the Commission and to appoint an
10 administrator.

11
12 Dwight Horsch, SWC member, stated that it would be a good idea to bring in someone with
13 agricultural lending experience as an advisor. Sara Schmidt, SWC Administrator, advised that
14 she could contact the Idaho Bankers Association to see if there is someone on their Ag
15 Committee that would be willing to advise. Dick Bronson, SWC member, voiced his support for
16 a representative from the Natural Resource Conservation Service (NRCS) serving as an advisor.
17 Other advisory assets in the past include a representative from the Idaho Association of Soil
18 Conservation Districts (IASCD) and the Idaho District Employees Association (IDEA) and all
19 commissioners believe that they should continue to advise.

20
21 Ms. Schmidt reviewed the change to the statute making it clear that the Commission appoints
22 an Administrator. She further advised the commission that as a non-classified employee she is
23 an at-will employee and that they have the ability to hire or fire her.

24
25 Mr. Flory would like to hold off on the election of SWC officers and action about advisors and
26 an Administrator until all Commissioners are present in the meeting.

27 28 REVIEW OF DRAFT MINUTES

29
30 The commission reviewed the draft minutes from the June 16, 2010 teleconference.

31
32 **Mr. Bronson moved to approve the minutes as presented. Mr. Horsch seconded. No**
33 **discussion. Motion passed unanimously.**

34
35 There was a review of the district consolidation hearing between the Jefferson and Mud Lakes
36 districts from the previous evening. The petition was granted and the appropriate paperwork
37 will be filed with the Secretary of State's office. The chairs of both districts requested time to
38 finalize the details of the consolidation as discussed at the hearing and the commission agreed
39 to hold off on filing the sworn statement until early September 2010.

40
41 Harriet Hensley, Deputy Attorney General, gave a quick review of the state public records law in
42 conjunction with Section 1619 of the Farm Bill. Highlights of the Open Meeting Law were
43 reviewed and they are available on the Attorney General's website. Ms. Hensley also advised
44 that training to the districts is available through their insurance carrier, Idaho Counties Risk

Management Program (ICRMP). Ms. Hensley advised how to correct a violation of Open Meeting Law during an open session.

Exemptions to the Open Meeting Law were discussed, including the tie-in to Section 1619. Personal information, including farming practices, farm land details, and crop information cannot be discussed during an open meeting. Cooperators of the federal agencies tied to the Farm Bill are also bound by Section 1619 and may not release this information. Payment information, name, and address are not excluded once the loan has been made to the borrower. Landowners and producers can give individual consent to release their information but it cannot be coerced.

Ms. Hensley advised that this information is part of the Resource Conservation and Rangeland Development Program (RCRDP) loan applications, which requires the commission to go into Executive Session to review the information.

Discussion followed. Districts asked about the statute of limitations for a violation of Open Meeting Law. Ms. Hensley advised that she would need to look at the specifics if a party finds out about the violation after the statute of limitations runs out. Ms. Schmidt reminded districts that ICRMP offers this training for each district and encouraged them to take advantage of the various training sessions offered. Discussion followed. Ms. Hensley added that any deliberation that leads to a decision or policy being made is a violation if it does not happen in an open meeting. Further discussion about examples of what does or does not constitute a violation of Open Meeting Law.

Dave Radford, SWC member, asked about adding an item to the agenda that was not posted in the original agenda. Ms. Hensley advised that there are exceptions that allow that to be done, including adding the item to the agenda by notice 24 hours prior to the meeting, or if you can show that it is an item that could not reasonably be noticed beforehand.

SECOND REVIEW OF IDAHO CODE § 22-2718

The commissioners revisited the issue of the election of officers. The floor was opened for the election after disclosure of the term of office for each commission member.

Mr. Horsch nominated Bill Flory for chair. Mr. Bronson seconded.

Mr. Radford moved to cease nominations and cast a unanimous ballot. Mr. Bronson seconded. Motion passed and Mr. Flory was nominated chair.

Mr. Bronson nominated Dwight Horsch for vice chair. Mr. Radford seconded.

Mr. Stutzman moved to cease nominations and cast a unanimous ballot. Mr. Radford seconded. Motion passed and Mr. Horsch was nominated vice chair.

Mr. Radford nominated Dick Bronson for secretary. Mr. Horsch seconded.

88 **Mr. Stutzman moved to cease nominations and cast a unanimous ballot. Mr. Horsch**
89 **seconded. Motion passed and Mr. Bronson was nominated secretary.**

90
91 All SWC members are not yet confirmed by the Senate but can continue to conduct business.
92 Ms. Schmidt advised that there will need to be review done with the Department of
93 Administration Fiscal Office to review the format of the SWC financial information.

94
95 There was continued discussion of Idaho Code § 22-2718 as it pertains to the appointment of
96 the SWC administrator.

97
98 **Mr. Radford moved to appoint Sara Schmidt as administrator of the Idaho Soil & Water**
99 **Conservation Commission pursuant to Idaho Code § 22-2718. Mr. Horsch seconded.**
100 **Discussion followed and roll call vote was taken by Kristin Magruder, SWC staff. All voted in**
101 **the affirmative and motion passed unanimously. Ms. Schmidt was re-welcomed to the**
102 **commission.**

103
104 Ms. Schmidt presented a small token of appreciation to the commissioners that had previously
105 served as part of the Idaho Soil Conservation Commission. The token is a small plaque for the
106 five former commissioners and Dick Rush, former commissioner and acting administrator, who
107 resigned in 2009.

108
109 Further discussion followed about the portion of the statute allows for the appointment of
110 certain advisors to the commission. With the departure of J. Morgan Evans from the
111 commission, the commission would like to find an advisor with banking experience. Discussion
112 followed about the advisors that were deleted from the statute, including the president of
113 IASCD. It was unusual for a private, non-profit agency to be listed in code so there were some
114 adjustments to statute and it was the intent of the legislature to let the commission choose
115 their own advisors. Once the advisory groups are appointed, the commission believes that it
116 should be up to the groups themselves to choose who they send to represent their agency.

117
118 The commission discussed an Ag banker or a representative for the Idaho Bankers Association,
119 the NRCS state conservationist, an IDEA representative, and an IASCD representative as
120 advisors. There was further discussion about the possible benefit of inviting other additional
121 agencies to serve as a future formal advisor as the commission's needs grow and evolve. The
122 commissioners further considered an advisor from the University of Idaho College of
123 Agriculture since they have not been active in commission business in the recent past. There
124 was consensus between the commissioners that they more advisors they have, the better.

125
126 **Mr. Horsch moved pursuant to Idaho Code § 22-2718 to invite a representative from the**
127 **Idaho Association of Soil Conservation Districts, a representative from Idaho District**
128 **Employees Association, a representative from the University of Idaho College of Agriculture,**
129 **the state conservationist from Natural Resources Conservation Service or his representative,**
130 **a representative from the Idaho Bankers Association Ag Committee, and any other advisor as**
131 **needed. Mr. Radford seconded. No further discussion. Motion passed unanimously.**

132
133 **RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM (RCRDP)**
134

135 Discussion began about the changes within the RCRDP loan program. The commission is
136 entering into an Memorandum of Understanding with Office of Energy Resources (OER) to
137 share a loan officer for the loan program. Frank Arana's contract will continue for a short time
138 to help with the transition to train the new loan officer, Terry Hoebelheinrich, and to finalize
139 the file review.

140
141 The statute provides the ability to charge interest up to 6% per annum. Policy allows for the
142 commission to set the interest rates each year and are tiered according to length of loan term.
143 There is money in the fund to approve for loans and the commission will continue to promote
144 the program in the near future. Discussion about how to coordinate the Environmental Quality
145 Incentives Program (EQIP) schedule with the RCRDP loan program and there will be further
146 coordination with NRCS to make this happen.

147
148 The legislature utilized \$100,000 from the loan program last session and there is a risk they
149 could take more to help balance the budget next session unless the funds are loaned out. A
150 request was made to increase the policy limit. Rule was changed last year to allow an increase
151 to the limit on an individual loan from \$50,000 to \$200,000 and on total loans to an individual
152 borrower to \$300,000. But, by policy, the limit is still \$125,000 with the ability for the
153 commission to make an exception with a waiver. Discussion followed about considering change
154 to the policy to allow a larger limit because of the cost of purchasing new equipment.

155
156 Feedback from districts present was to constantly communicate changes within the program,
157 policy and personnel. The districts offered to assist with some training to other district
158 personnel about completing loan applications.

159
160 Ms. Schmidt discussed the training that was done last fall with some of the districts and asked if
161 more training would be helpful to promote the program. District personnel responded that
162 information to hand out at district meetings would be helpful, but district newsletters inserts
163 would work too. Ms. Schmidt advised that the commission will put out a press release for
164 general use. Mr. Burwell requested that SWC present at the NRCS management meeting. Mr.
165 Flory directed staff to work with NRCS to coordinate promotion of the RCRDP loan program
166 around the state.

167
168 **Interest rates for FY 2011**

169 Discussion began about setting the interest rates for FY 2011. Lower interest rates benefit the
170 borrower and there was consensus to set rates comparable to the rest of the market. Mr.
171 Horsch is comfortable with the rates as they currently stand: 3% for 1 to 5 year loans; 4% for 6
172 to 10 year loans; and 5% for 11-15 year loans. Discussion followed about the commission's
173 responsibility to get conservation on the ground in conjunction with their responsibility to
174 protect the state's interest and money. The commission has been conservative in the recent
175 past by requesting significant collateral on loans.

176
177 **Mr. Horsch moved to leave the interest rates the same as the prior fiscal year. Mr. Stutzman**
178 **seconded. No discussion. Motion passed unanimously.**

179
180 Mr. Radford opened the discussion to raise the loan limits above the current limit of \$125,000.
181 Question was posed to Jeff Burwell, NRCS State Conservationist, about requirements for match
182 on their EQIP funding and he responded that they don't track where the landowner match
183 comes from but will work with the commission to coordinate the advertisement of EQIP
184 applications with RCRDP loan funding for the match portion.

185
186 **Mr. Horsch moved to change RCRDP policy to increase the loan limits from \$125,000 to the**
187 **maximum allowed in rule. Mr. Radford seconded. Discussion followed and Mr. Bronson**
188 **stated concerns over the larger limits. Roll call vote was taken: Horsch, aye; Radford, aye;**
189 **Bronson, nay; Stutzman, aye. Motion passed.**

190
191 **Financial Update**

192 Ms. Magruder presented the RCRDP financial update and cash flow report. The adjusted cash
193 balance for the month of June was \$1,847,922, reflecting an increase of \$89,811 for the month.
194 There was one disbursement of \$155,000, bringing the ending cash balance for the month of
195 June to \$1,692,922.

196
197 The commission also closed out fiscal year 2010 as of June 30, 2010. The loan program began
198 the year with a cash balance of \$362,656, had an increase of \$2,169,542 for an adjusted cash
199 balance of \$2,532,199. Total decrease of funds, including personnel, administrative allocations,
200 the state holdback, disbursements and capital outlay totaled \$839,276 for the year. Total loan
201 disbursements totaled \$570,288. The ending cash balance for FY2010 was \$1,692,922.

202
203 There is an outstanding principal balance of \$7,995,655 on loans. The current balance of the
204 3% contingency balance is \$239,869. The current balance on the funds available to loan is
205 \$1,085,388, which includes the pending disbursements on previously approved loans, totaling
206 \$367,665.

207
208 Mr. Stutzman disclosed to the board that he is a current borrower of the RCRDP program and
209 that the loan is in good standing.

210
211 Mr. Bronson opened up the discussion for adjustment to the Commission's requirement for a
212 3% contingency balance and if it is needed moving forward. The concern is that the
213 contingency does not show as a line item within the state fiscal system and would be viewed as
214 funds not set aside for a specific purpose and a recommendation was made to consider that
215 amount available to loan.

216
217 **Mr. Radford moved to accept the RCRDP cash flow report and financial report. Mr. Stutzman**
218 **seconded. Motion passed unanimously.**

Mr. Bronson moved to enter into executive session pursuant to Idaho Code § 67-2345(d) to review pending RCRDP loan applications only. Mr. Horsch seconded. Motion passed unanimously.

A break was called for at 9:43 a.m. and the commission moved into executive session at 9:55 a.m. Terry Hoebelheinrich, Sara Schmidt, Harriet Hensley, and Kristin Magruder were invited to stay. During executive session, Jeff Burwell was invited to participate and answer questions.

Mr. Bronson moved to come out of executive session. Mr. Radford seconded. Motion passed.

Executive session ended at 11:07 a.m.

Introductions of meeting participants and guests that were not present for the earlier introductions.

There was a question during executive session whether NRCS allows participants to purchase used equipment in conjunction with an EQIP contract. Mr. Burwell advised that NRCS does not typically allow used equipment or materials to be purchased with few exceptions, such as fence posts.

Commissioners discussed the disposition of pending RCRDP loan applications.

Loan No. 631

Amount: \$75,000

Term: 7 years

Rate: 4%

Project description: Convert to pivot irrigation.

Mr. Flory disclosed a potential conflict of interest with Loan A-631 and recused himself from discussion, deliberation, or voting on the disposition of the loan.

Mr. Bronson moved to approve Loan No. 631 subject to the Loan Officer recommendations including, but not limited to, the Loan Conditions as listed on page A-4 of the loan packet. Collateral includes 1st position lien on equipment and a second position lien on real estate. Mr. Stutzman seconded. No discussion. Motion passed.

Loan No. A-632

Amount: \$21,000

Term: 7 years

Rate: 4%

Project description: Convert from surface irrigation to sprinkler.

Mr. Bronson moved to approve Loan No. 632 subject to the Loan Officer recommendations including, but not limited to, the Loan Conditions as listed on page B-4 of the loan packet. Collateral is sufficient and includes a first position lien on the pivot, pumps, and panels offered. Mr. Stutzman seconded. No discussion. Motion passed.

Loan No. A-633

Amount: \$15,000

Term: 5 years

Rate: 3%

Project description: Convert from flood irrigation to sprinkler irrigation, which will prevent soil erosion, increase water efficiency, and solve nitrate movement to the watershed.

Mr. Bronson moved to approve Loan No. 633 subject to the Loan Officer recommendations including, but not limited to, the Loan Conditions as listed on page C-4 of the loan packet. Collateral is sufficient and includes a first position lien on all equipment offered. Mr. Stutzman seconded. No discussion. Roll call vote was taken with four ayes; one nay. Motion passed.

Mr. Radford asked some clarifying questions about the loans as presented.

ADMINISTRATOR'S REPORT

Ms. Schmidt began the discussion for the Administrator's Report for the closing of the fiscal year 2010 and planning for fiscal years 2011 and 2012. She advised the commission on the details of the move from Dept of Agriculture to Dept of Administration and the logistics involved with setting up a new agency.

The Performance Measurement Report is due to the Division of Financial Management on September 1, 2010. Part of that report includes the District Survey and Ms. Schmidt encouraged the districts to get those surveys turned in as soon as possible.

The commission previously approved moving forward with the District Supervisors Handbook and the outline is being worked on and staff encouraged feedback from the districts on what is most important to them.

Ms. Schmidt presented the new organizational chart for the commission staff and outlined basic changes in the staffing across the state. There will be a WQRC position opening up this fall in Eastern Idaho and wants the districts to think about where the best location for this position would be. There is also a change in the engineering staff coming up at the end of August 2010. Engineers Allan Johnson, who is currently on staff with Dept of Agriculture, and Donell Fluckiger will be doing a voluntary transfer. Mr. Johnson is located in southeastern Idaho and Mr. Fluckiger is located in the Magic Valley.

Carolyn Firth will now be the state lead on ground water issues. Bill Lillibridge will be the lead on engineering services across the state. Chuck Pentzer will continue to be the lead on Conservation Reserve Enhancement Program (CREP) and Lance Holloway will continue to manage the Water Quality Program for Agriculture (WQPA) cost-share program.

Ms. Schmidt discussed the need for a operations specialist within the commission to play a leadership role in services to district officials and keep the programs and projects running in a timely fashion in her absence. Additionally, there needs to be some technical management when there are vacancies or retirements in the staff. This position is still in the works and she is looking for input on needs and priorities statewide.

FY 2010 CLOSEOUT

Discussion began about the FY 2010 closeout. Moving forward, the format of the cash reports will look different in FY 2011 due to the move to the Dept. of Administration.

The commission finished the year with a general fund appropriation of \$3,670,200 and expenses totaled \$3,621,679. This number reflects actual expenditures during the fiscal year and a 7.1% recission/holdback from the original appropriation. The federal programs that the commission once managed were transferred to the Office of Species Conservation effective June 2010 and these line items will not move forward to next fiscal year.

FY 2011 BLUEPRINT

The total legislative appropriation for FY 2011 is \$2,342,200. Breakdown includes \$700,000 for district allocations; \$314,996 for WQPA; \$135,750 for Operating Expenses; \$1,136,062 for Personnel Costs; and a \$55,392 contingency balance. The contingency is being set aside for the possibility of another holdback this next fiscal year.

Ms. Schmidt discussed the estimated costs for overhead costs in the Boise office, which is based on the estimate that we received from Dept of Administration for their time in supporting SWC for fiscal, HR, and other administrative expenses. Per the MOU, actual time will be reviewed after the first quarter and adjustments made if needed to the amount charged.

Ms. Schmidt highlighted a FY 2011 supplemental request for operating expenditures. Other government agencies have contacted the commission stressing the importance of the commission technical staff to get projects on the ground. Idaho Department of Environmental Quality (IDEQ), Office of Species Conservation and NRCS have offered to pay for technical assistance for specific projects but currently the Commission does not have the spending authority for any such funds received for technical assistance support. Ms. Schmidt emphasized the part of the official written request that states "SWC will only perform work that is consistent with our voluntary, non-regulatory mission and that does not compete with services that local district could offer."

Mr. Horsch moved to request spending authority from Division of Financial Management and the Legislature for any monies received, up to \$27,500, from other agencies as reimbursement for technical assistance received from the commission staff. Mr. Radford seconded. Discussion followed. Motion passed unanimously.

FY 2012 BUDGET REQUEST

Discussion moved to the FY 2012 Budget Request. There are several steps to the process and the discussion will include information for three different fiscal years. Dept of Administration was extremely helpful in building the foundation for this request in the state system. All state agencies must separate their budget requests into a base request (which includes ongoing basic operations) and enhancement requests (which includes any additional items that the agency wants considered). Once each state agency completes it's annual budget request it is concurrently submitted to the Division of Financial Management and the Legislative Services Office no later than September 1st.

The first proposed SWC enhancement request is for the full two-to-one state to local match. Ms. Schmidt reviewed the process for calculating the enhancement request: each district was requested to submit a projection of their local match for FY 2012. In most cases those projections included a letter of intent from the appropriate local official. Districts are projecting \$480,201 for total local match next fiscal year with \$410,500 coming from cash and another \$69,702 in services. If fully funded at the 2:1 statutory match, the total amount needed for match funding would be \$960,404. This match funding is in addition to the base funding. The amount of the enhancement request must be based on the difference between current spending and the requested amount.

The base for district allocations for FY 2011 needs to be set by the commission before proceeding with the FY 2012 request. Discussion followed about the change in statute from base funding per district of up to \$5,000 to up to \$8,500.

Mr. Bronson moved to set the base funding at \$8,500 per district for FY 2011 based on legislative intent, for a total of \$433,500. Mr. Horsch seconded. No discussion. Motion passed unanimously.

Discussion about the maximum \$58,500 per district and how that would impact the match requested.

There was discussion about the amount that was appropriated in FY 2011 for district allocations. Historically, \$800,000 has been the level for district funding and it will be reduced to \$700,000 for FY 2011. Knowing a tight year was ahead the Commissioners did make a special allocation of \$251,823 in June, 2010 which made total FY 2010 district allocations \$1,117,315. There was discussion about the intent of the legislature to assist small districts when they increased the base to up to \$8,500. All state agencies had to take a cut in their budgets and the districts were not immune due to an overall SWC budget decrease of 40%.

With base funding set at \$8,500 per district for a total of \$433,500 the grand total for full 2:1 match based on the earlier projections would be \$1,393,904. Subtracting out the \$700,000 total budget baseline as required there would be an additional \$693,904 needed for full 2:1 funding.

Mr. Radford moved to submit the FY 2012 budget supplemental request for \$693,904 to the Division of Financial Management and the Legislature. Mr. Bronson seconded. Discussion followed about the direction from DFM in prior years. Ms. Schmidt responded that even if funds are not available there is increased awareness with staff as to why the commission and districts are requesting the full statutory match of 2:1. Motion passed unanimously.

Ms. Schmidt recommended asking for an additional supplemental request for FY 2012 for the authority to spend funds received from other agencies for technical assistance support in the amount of \$47,500. Ms. Schmidt again emphasized the part of the official written request that states "SWC will only perform work that is consistent with our voluntary, non-regulatory mission and that does not compete with services that local district could offer."

Mr. Horsch moved to approve the supplemental request for FY 2012 for the authority to spend funds received from other agencies for technical assistance support in the amount of \$47,500. Mr. Stutzman seconded. No further discussion. Motion passed unanimously.

Ken Stinson, Latah Soil and Water Conservation District, commended the commission for the transparency and the explanations from staff about the budget items and requests. The commissioners thanked Mr. Stinson for his support.

LUNCH BREAK

A lunch break was called for at 12:17 p.m.

The meeting reconvened at 1:01 p.m.

CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP) UPDATE

Chuck Pentzer, SWC staff, gave a presentation on the CREP program within the Eastern Snake River Plain Aquifer. This program is done in cooperation with many local, state, and federal agencies and covers over 10,000 square miles. Idaho CREP is administered in cooperation with the Farm Services Agency. The state of Idaho contributes 20% over the overall annual costs to the program. Idaho Ground Water Appropriators (IGWA) provide incentive payments to the landowners, Idaho Department of Water Resources (IDWR) verifies the water rights and reports on the annual water savings, SWC provide technical assistance, and the Idaho Department of Fish and Game (IDFG) provide wildlife enhancements. Addressed challenges such as availability of seed, weather conditions, commodity prices, staff and budgeting concerns, and perceptions of the program. Currently, the program has a water savings equivalent to the storage of Milner Dam, and equates to an annual savings to provide domestic water for 330,000

people. The annual power savings is over 72 million kilowatt hours and an annual soil savings of approximately 140,000 tons. Other benefits include conservation education, water levels, financial benefit, and increased wildlife habitat.

Ron Abbott, Farm Services Agency, expanded upon the program. CREP was born out of the Conservation Reserve Program initiative and helped to create a conservation priority area (CPA) within the Jerome, Minidoka, and Lincoln county area. There were some changes within the 2008 Farm Bill that will require some updated agreements. Mr. Abbott discussed the challenges with the Section 1619 confidentiality terms and how it affects their ability to work the program in public meetings.

Mr. Burwell, NRCS, discussed their role with CREP, which is primarily technical assistance and active involvement of the Plant Materials Center. They look at the environmental benefits of the program so each agency can justify to the Office of Management and Budget (OMB) that particular item in their budget.

Sal Palazzolo, IDF&G, identified the wildlife benefit CREP has had on sage grouse and other species. Voluntary programs such as CREP are critical in getting the landowners buy-in on species conservation practices. Another benefit is that the seeding is based on native grasses already found within the state. He is also working on another voluntary program from the 2008 Farm Bill that offers incentives to landowners that allow recreational activities on their property, but right now, the priority is for landowners involved with CREP.

Lynn Tominaga, IGWA, gave some history on the beginnings of CREP, which began in 2005. The goal was to find additional incentives to build on CRP to get the interest of the farmers who might not otherwise have been interested. Idaho Senator Mike Crapo was instrumental in getting some extra assistance through the 2008 Farm Bill. Mr. Tominaga discussed the issues surrounding water rights in the CREP area and the challenges water users could have in the future. The biggest challenge is that water usage in that area is greater than the water levels can replenish themselves. There are several studies that indicate spring levels going up, but not fast enough to mitigate the potential damages 30 years down the road. Mr. Tominaga indicated a desire to work with the commission when granting loans on pivots to give consideration to where the pivot is placed based on the ability to recharge.

OVERVIEW OF AREA DISTRICTS

Randy Purser, IASCD Division VI Director, presented a brief overview of the activities and projects of the eleven Division VI districts, which include the Butte, Clark, Custer, East Side, Jefferson, Lemhi, Madison, Mud Lake, Teton, West Side, and Yellowstone districts. Mr. Purser reviewed how the districts utilize their funds and where they generate funds from, the list of conservation priorities, and a summary of performance highlights. Division VI has implemented several educational programs including Adopt a Canal, Ag Awareness Week, Natural Resource Workshop Camp, and poster and speech contests. Supervisors present voiced their support of the work they do and the value of doing the conservation work. District staff present gave

statements in support of the work that they do in support of the districts and their communities. All commissioners were impressed with the overview and thanked the group for their participation.

A break was called for at 2:02 p.m.

The meeting was reconvened at 2:18 p.m.

RULEMAKING FOR DISTRICT ALLOCATIONS

Discussion began about the temporary rule for district allocations. The commission was strongly encouraged during the last legislative session to engage in rulemaking as directed per statute. Highlights of changes to the statute include the increase of base funds from \$5,000 up to \$8,500 and the cap of match funds at \$50,000 per district. It is recommended that the commission approve the temporary rule so district allocations can be distributed as soon as possible, with the intent of proceeding with a permanent rule during FY 2011.

It was the intent of the commission to have as much district participation and input as possible during the drafting of the temporary rule. The commission held meetings and trainings such as:

- On April 12, 2010, the commission held customized training for districts and SWC staff to learn about the state rulemaking process and procedures
- On May 6, 2010, a discussion draft of the key topics to be considered in the temporary rule was circulated for review and input
- On May 20, 2010, public input was taken at the regular commission meeting
- On June 23, 2010, the first version of the draft temporary rule was circulated for review and input
- On June 30, 2010, a conference call was conducted with the Attorney General's office to review the draft rule and get input from interested parties
- On July 30, 2010, an updated version of the draft temporary rule was circulated for further review and input
- On August 4, 2010, an informational conference call was held to advise districts and interested parties what the next steps for the temporary rule would be

Commission staff made it a point to attend as many district meetings to get input and inform the boards to the status of the draft temporary rule.

Ms. Schmidt reviewed the draft temporary rule dated July 30, 2010 line by line beginning on page two with definitions:

- Antidegradation plan, also known as the Five-Year plan: This plan is already required under the rule for water quality standards in order for districts to receive their allocation from the state.
- Base funding: Was increased from \$5,000 up to \$8,500 per district.

- Certify: This relates to how reports are submitted to the commission, which now requires a certification from each district board.
- Financial Reports: Several requirements were removed from statute last year and districts are now subject to same audit requirements as all other governmental entities. It is not the commission's role to enforce audit requirements any longer, instead it will focus on specifically on state monies.
- Funding Criteria: There will be criteria the district have to meet in order to receive their funding.
- Local Funds: Refers to cash received from local units of government. The intent for receiving state match is for the funds to be for general purposes and not for a specific fee-for-service.
- Local Services: Non-cash contributions from a local unit of government that cover services for the general purposes of the district and not a specific purpose.
- Local Units of Government: Can include any unit of government contained within the boundaries of a district.
- Maximum Allocation: Ms. Hensley did some legal research within the interim committee minutes and found that the \$50,000 maximum appears to apply to match funds only, so the maximum amount per district will be \$58,500 per district.
- Performance Reports, formerly known as the Report of Accomplishments.

Discussion about the base funding for districts. Each fiscal year, the commission shall determine the amount to allocate each year for base funding. Once the required documents are submitted, the commission shall immediately distribute base funding to the district. Forms required to receive base funding include the Antidegradation Plan, the Performance Report, and the Financial Report.

Discussion about the match funding for districts, which includes both local cash funds and in-kind services. Comments from the audience that having a deadline for districts to comply in rule would limit the flexibility of the Commission if a district missed a deadline due to unusual circumstances. Discussion followed about deleting the actual dates from the rule and instead referencing a deadline set by the Commission.

Organizations are not included in this temporary rule because there is not a precedent set nor has much input been received so far. Additional thought and discussion is requested about how to identify and define organizations as it pertains to district allocations. Discussion followed. Audience members referenced a draft resolution for the IASCD conference that addresses that issue. A question followed about what would happen if that part of the statute was changed to only allow local units of government and disallow organizations. Ms. Hensley advised that for the purpose of finalizing a proposed rule under the current statute it was the intent of the legislature when they added that definition to statute to include organizations in addition to local governmental units.

Ms. Magruder reviewed each of the form templates being considered for policy, including the Financial Report Form and the Match Report Form.

Mr. Horsch moved that the commission adopt the temporary rule as edited during the meeting by consensus by deleting page 3, lines 89-90 and page 3, lines 108-109. Mr. Stutzman seconded. Discussion followed and staff and district was commended for the work they put into the drafting and research of this rule. Question about the match funding date being deleted since there is a distribution date in paragraph 011.02, line 99-101. Discussion followed. There should be some accountability deadlines for the commission to distribute the district funding and discussion followed to leave the January 1st deadline in the temporary rule. **Motion passed. Roll call vote was taken with all voting in the affirmative.**

Discussion about the proposed dates the reports should be due to the commission.

Mr. Horsch moved to set the due date for the Financial Report and Match Report for no later than November 1st, 2010. Mr. Bronson seconded. Discussion followed. Roll call vote was taken with all voting in the affirmative. Motion passed unanimously.

Ms. Schmidt opened up the discussion about the value of time in claiming in-kind for the state match funding. A suggestion was made to limit the time claimed just to time that could conceivably be reimbursed at a dollar value.

Discussion about setting values on in-kind services claimed on the Match Report Form. The idea of setting market values that the districts could use was presented in order to make the values consistent across the state. Services vary so much across the state that the districts should be allowed to claim the actual value and not a set value. Discussion and debate continued.

Discussion returned to the value of the county commissioner's time and whether that time could or should be considered for state match.

Mr. Horsch moved to not allow the value of donated time from local units of government for use in calculations for state match for purposes of this temporary rule. Mr. Bronson seconded. Discussion followed. Motion passed unanimously.

Mr. Horsch moved that the chair establish a working group to analyze the process, deadlines, in-kind match, and other issues and to report back to the commission by the November 2010 meeting. Mr. Stutzman seconded. Discussion followed. Motion passed unanimously.

Ms. Schmidt advised that the forms will be modified to reflect the changes made in today's meeting and distributed as soon as possible.

OTHER BUSINESS

611 The commission set future meetings based on upcoming issues. There is a September 3, 2010
612 deadline to submit RCRDP loan applications and deadlines on the reports for allocations. The
613 commission has been invited to the IASCD annual conference and can schedule around that.
614 Senate confirmation hearings will be at the discretion of the Senate Ag leader and SWC can
615 schedule a meeting in conjunction with those hearings.

616
617 The next commission meeting will be scheduled on Wednesday, November 17, 2010 in
618 conjunction with the IASCD annual conference in Burley. It was suggested that staff double
619 check with Mr. Radford to make sure that date will work with his schedule as well.

620
621 A conference call to review RCRDP loan applications is scheduled for Tuesday, September 28,
622 2010 at 8:00 a.m.

623
624 Karma Bragg, IDEA president, invited commission staff to the IDEA grant training at the
625 conference from 1-5pm on Wednesday, November 17, 2010.

626
627 Mr. Stinson gave an update and requested commission assistance for identifying any upcoming
628 meetings about the Palouse earthworm issue. He is concerned about the amount of match
629 funding that will be available for the smaller districts after the base funding goes out and
630 requested that if the commission can find additional funds to distribute to the districts, it would
631 be appreciated.

632
633 **Mr. Bronson moved to adjourn. Mr. Stutzman seconded. Motion passed unanimously.**
634 **Meeting adjourned at 4:29 p.m.**

635
636 Respectfully submitted,

637
638 Dick Bronson
639 Commissioner and Secretary,
640 Idaho Soil & Water Conservation Commission